

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

GUY GENTILE,

Plaintiff,

v.

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Defendant.

Case No. 2:19-cv-05155 (JLL/JAD)

(ECF)

[PROPOSED] ORDER TO SHOW CAUSE
WHY A PRELIMINARY INJUNCTION
SHOULD NOT ISSUE WITH
TEMPORARY RESTRAINT

THIS MATTER having been brought before the Court by Plaintiff Guy Gentile, through his counsel, by Order to Show Cause seeking a temporary restraining order and preliminary injunction pursuant to Federal Rule of Civil Procedure 65 and Local Civil Rule 65.1, and upon the February 8, 2019 Complaint, the March 5, 2019 Declaration of Adam C. Ford and the exhibits thereto, the March 5, 2019 Declaration of Guy Gentile and March 5, 2019 Memorandum of Law submitted herewith the Court having determined that good and sufficient reasons exist to proceed by way of Order to Show Cause, and for good cause shown.

IT IS on this _____ day of _____, 2019,

ORDERED that the defendant in the above-captioned matter the United States Securities and Exchange Commission appear and show cause before the United States District Court for the District of New Jersey, Hon. Jose L. Linares, at the Martin Luther King Building & U.S. Courthouse, 50 Walnut Street, Courtroom 5D, Newark, NJ 07101 on the _____ day of _____, 2019 at _____ on that day, or as soon thereafter as counsel may be heard, why an order should not be made and entered:

1. Pursuant to Fed. R. Civ. P. 65 and Local Rule 65.1 preliminarily enjoining the United States Securities and Exchange Commission from issuing any new subpoenas, or commencing actions to enforce any existing subpoenas, but only to the extent that such subpoena **both** (1) seeks documents or testimony concerning Guy Gentile, Swiss America Securities, Ltd., MintBroker International, Ltd. or “SureTrader”, **and** (2) is purportedly authorized solely by virtue of the November 25, 2013 Formal Order of Investigation in “In the Matter of Traders Café (FL-03848)”; and
2. Granting such other relief as the Court deems equitable and just.

And it is **FURTHER ORDERED** that:

1. Pending further hearing on this Order to Show Cause, the defendant United States Securities and Exchange Commission is temporarily enjoined and restrained from issuing any new subpoenas, or commencing actions to enforce any existing subpoenas, but only to the extent that such subpoena **both** (1) seek documents or testimony concerning Guy Gentile, Swiss America Securities, Ltd., MintBroker International, Ltd. or “SureTrader”, **and** (2) is purportedly authorized solely by virtue of the November 25, 2013 Formal Order of Investigation in “In the Matter of Traders Café (FL-03848),”;
2. A copy of this Order to Show Cause, Complaint, supporting affidavits, declarations, and Memorandum of Law submitted in support of this application, shall be served upon the defendant United States Securities and Exchange Commission, with a copy to the Office of the Attorney General of the United States, within _____ days of the date hereof, in accordance with Fed. R. Civ. P. 4.
3. Plaintiff must file with the Court its proof of service of the pleadings on the Defendants no later than three (3) days before the return date.
4. Defendant shall file and serve a written response to this Order to Show Cause and proof of service by _____, 2019. A courtesy copy of any opposition papers should be provided directly to Hon. _____;
5. Plaintiff must file and serve any written reply to the Defendant’s opposition to the Order to Show Cause by _____, 2019. A courtesy copy of the reply papers should be provided directly to Hon. _____;
6. If the Defendant does not file and serve opposition to this Order to Show Cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the Plaintiff files a proof of service and a proposed form of Order at least three days prior to the return date.
7. If the Plaintiff has not already done so, a proposed form of Order addressing the relief sought on the return date must be submitted to the Court no later than three (3) days before the return date.

8. The Court will notify the parties whether it will entertain argument on the return date of the Order to Show Cause in accordance with Local Civil Rule 78.1.

March __, 2019

Hon. _____